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2010 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons

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Note verbale dated 6 May 2010 from the International Committee of the Red Cross to the United Nations addressed to the Secretary-General of the Conference

The delegation of the International Committee of the Red Cross to the United Nations presents its compliments to Thomas Markram, head of the Weapons of Mass Destruction Branch, Office for Disarmament Affairs, at United Nations Headquarters in New York, and has the honour to request that the speech on nuclear weapons (see annex) delivered by Jakob Kellenberger, President of the International Committee of the Red Cross, on 20 April 2010, be distributed as a document of the 2010 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons.

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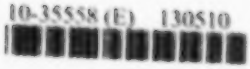

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Annex

Nuclear weapons: statement to the Geneva diplomatic corps by Jakob Kellenberger, President of the International Committee of the Red Cross

Headquarters of the International Committee of the Red Cross, Geneva, 20 April 2010

In recent weeks and months, the issues of nuclear disarmament and nuclear non-proliferation have assumed a new urgency on the world stage. Energetic diplomatic efforts are heralding long overdue progress on nuclear-weapons issues in the post-cold war era.

The International Committee of the Red Cross (ICRC) firmly believes that the debate about nuclear weapons must be conducted not only on the basis of military doctrines and power politics. The existence of nuclear weapons poses some of the most profound questions about the point at which the rights of States must yield to the interests of humanity, the capacity of our species to master the technology it creates, the reach of international humanitarian law and the extent of human suffering we are willing to inflict, or to permit, in warfare.

The currency of this debate must ultimately be about human beings, about the fundamental rules of international humanitarian law and about the collective future of humanity.

ICRC has a legitimate voice in this debate. In its 150-year history, the organization has witnessed immeasurable human suffering caused by war and understands the potential of international humanitarian law to limit such suffering. ICRC also brings to the debate its own direct testimony to the consequences of the use of nuclear weapons and their potential to render impossible the mission of humanitarian assistance that this organization exists to fulfil. Dr. Marcel Junod, an ICRC delegate, was the first foreign doctor in Hiroshima to assess the effects of the atomic bombing and to assist its victims. His testimony in an article entitled "The Hiroshima Disaster", stored in the ICRC archives and first published in 1982, told of the human reality of this weapon.

> We ... witnessed a sight totally unlike anything we had ever seen before. The centre of the city was a sort of white patch, flattened and smooth like the palm of a hand. Nothing remained. The slightest trace of houses seemed to have disappeared. The white patch was about two kilometres in diameter. Around its edge was a red belt, marking the area where houses had burned, extending quite a long way further ... covering almost all the rest of the city.
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> According to witnesses encountered by Junod, in a few seconds after the blast
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> thousands of human beings in the streets and gardens in the town centre, struck by a wave of intense heat, died like flies. Others lay writhing like worms, atrociously burned. All private houses, warehouses, etc., disappeared as if swept away by a supernatural power. Trams were picked up and hurled yards away, as if they were weightless; trains were flung off the rails ... Every living thing was petrified in an attitude of acute pain.

As Junod recounts, destruction of this magnitude does not spare medical infrastructure or doctors and their materials. Of 300 doctors in Hiroshima, 270 were reported dead; of 1,780 nurses, 1,654 were dead; of 140 pharmacists, 112 were dead. Miraculously, the Japanese Red Cross hospital that Junod visited was built of stone and remained largely intact. However, it could no longer function, as its laboratory equipment was unusable, a third of its staff had been killed and there was no possibility of blood transfusion, as the donors were either dead or had disappeared. Of a thousand patients who had taken refuge there on the first day, 600 rapidly died.

The suffering caused by the use of nuclear weapons is increased exponentially by devastation of the emergency and medical assistance infrastructure. The specific characteristics of nuclear weapons, that is, the effects on human beings of the radiation they generate, also cause suffering and death for years after the initial explosion. For survivors, the immediate future may include life-threatening dehydration and diarrhoea from injuries to the gastrointestinal tract, and life-threatening infections and severe bleeding caused by bone marrow suppression. If they survive these threats, they face an increased risk of developing certain cancers and of passing on genetic damage to future generations. Thus, over time, many more lives are lost. In Hiroshima and Nagasaki, fatalities increased two to threefold over the following five years.

Although nuclear weapons' potential for destructive force increased by a factor of many thousands during the cold war, the ability of States and international agencies to assist potential victims did not. ICRC has recently completed a thorough analysis of its capacity and that of other international agencies to bring aid to the victims of the use of nuclear, radiological, chemical or biological weapons. Despite the existence of some response capacity in certain countries, at the international level there is little such capacity and no realistic, coordinated plan. Almost certainly, the images seen in Hiroshima and Nagasaki will be those resulting from any future use of nuclear weapons.

We now know that the destructive capacity of the nuclear weapons used in Hiroshima and Nagasaki pales in comparison to those in current arsenals. According to many scenarios of nuclear-weapon use, the human and societal destruction would be much worse. We also know that use of a fraction of the weapons held in current arsenals would affect the environment for many years and render agriculture impossible in vast areas. The implications for human life are indeed sobering.

Excellencies, ladies and gentlemen,

The International Committee of the Red Cross has long been preoccupied by nuclear weapons, by the immense threat they pose to civilians and by their implications for international humanitarian law. Already on 5 September 1945, ICRC publicly expressed the wish that nuclear weapons be banned. From 1948 on, the entire International Red Cross and Red Crescent Movement, through its International Conferences, called for the prohibition of weapons of mass destruction, in general, and of nuclear weapons, in particular. In a communication to States parties to the Geneva Conventions in 1950, ICRC stated that before the atomic age:

> War still presupposed certain restrictive rules; above all ... it presuppose[d] discrimination between combatants and non-combatants. With atomic bombs and non-directed missiles, discrimination became impossible. Such arms will

> not spare hospitals, prisoner of war camps and civilians. Their inevitable consequence is extermination, pure and simple ... [Their] effects, immediate and lasting, prevent access to the wounded and their treatment. In these conditions, the mere assumption that atomic weapons may be used, for whatever reason, is enough to make illusory any attempt to protect non-combatants by legal texts. Law, written or unwritten, is powerless when confronted with the total destruction the use of this arm implies.

On this basis, the International Committee called on States to take "all steps to reach an agreement on the prohibition of atomic weapons".

In 1996 ICRC welcomed the fact that the International Court of Justice, in its Advisory Opinion on nuclear weapons, confirmed that the principles of distinction and proportionality found in international humanitarian law are "intransgressible" and apply also to nuclear weapons. In applying those principles to nuclear weapons the Court concluded that "the use of nuclear weapons would generally be contrary to the principles and rules of international humanitarian law". It was unable to decide whether, even in the extreme circumstance of a threat to the very survival of the State, the use of nuclear weapons would be legitimate.

Some have cited specific, narrowly defined scenarios to support the view that nuclear weapons could be used legally in some circumstances. However, the Court found that "... The destructive power of nuclear weapons cannot be contained in either space or time ... the radiation released by a nuclear explosion would affect health, agriculture, natural resources and demography over a very wide area. Further, the use of nuclear weapons would be a serious danger to future generations ...". In the light of this finding, ICRC finds it difficult to envisage how any use of nuclear weapons could be compatible with the rules of international humanitarian law.

The position of ICRC, as a humanitarian organization, goes — and must go — beyond a purely legal analysis. Nuclear weapons are unique in their destructive power, in the unspeakable human suffering they cause, in the impossibility of controlling their effects in space and time, in the risks of escalation they create and in the threat they pose to the environment, to future generations and indeed to the survival of humanity. ICRC therefore appeals today to all States to ensure that such weapons are never used again, regardless of their views on the legality of such use.

The international community now has at hand a unique opportunity to reduce and eliminate the threat of nuclear weapons for this and succeeding generations. The United Nations Security Council, meeting at summit level in September 2009, endorsed the objective of "a world without nuclear weapons". Four months earlier the Conference on Disarmament, in Geneva, unanimously agreed upon a programme of work and negotiations on nuclear-weapon issues, including nuclear disarmament. Some of the most renowned political and military leaders of recent decades have concluded that nuclear weapons undermine national and international security and support their elimination. Presidents Obama and Medvedev have recognized their countries' special responsibility for the reduction of nuclear weapons. The Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, to be held in New York next month, provides an historic opportunity for both nuclear- and non-nuclear-weapon States to agree on concrete plans for the fulfilment of all the Treaty's obligations, including those concerning nuclear disarmament.

In the view of ICRC, preventing the use of nuclear weapons requires fulfilment of existing obligations to pursue negotiations aimed at prohibiting and completely eliminating such weapons through a legally binding international treaty. It also means preventing their proliferation and controlling access to materials and technology that can be used to produce them.

The opening sentences of Marcel Junod's testimony began: "The physical impact of the bomb was beyond belief, beyond all apprehension, beyond imagination. Its moral impact was appalling". We must never allow ourselves to become morally indifferent to the terrifying effects of a weapon that defies our common humanity, calls into question the most fundamental principles of international humanitarian law and can threaten the continued existence of the human species.

ICRC today appeals to all States, and to all in a position to influence them, to seize with determination and urgency the unique opportunities now at hand to bring the era of nuclear weapons to an end.